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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

11 RIGHTHAVEN LLC, a Nevada limited-
 liability company,

13 Plaintiff,

14 v.

15 JAMES MATTHEWS, an individual; and
 16 MUSCLE CARS OF AMERICA, an entity of
 unknown origin and nature,

18 Defendants.

Case No.: 2:10-cv-01763

**COMPLAINT AND DEMAND
 FOR JURY TRIAL**

21 Righthaven LLC (“Righthaven”) complains as follows against James Matthews (“Mr.
 22 Matthews”) and Muscle Cars of America (collectively with Mr. Matthews known herein as the
 23 “Defendants”) on information and belief:

25 **NATURE OF ACTION**

26 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

PARTIES

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2 2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-
3 liability company with its principal place of business in Nevada.

4 3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing
5 with the Nevada Secretary of State.

6 4. Mr. Matthews is, and has been at all times relevant to this lawsuit, identified by
7 the current registrar, Orange Geek LLC (“Orange Geek”), as a registrant, administrative contact,
8 technical contact, and billing contact for the Internet domain found at
9 <musclecarsofamerica.com> (the “Domain”).

10 5. Muscle Cars of America is, and has been at all times relevant to this lawsuit,
11 identified by Orange Geek as a registrant, administrative contact, technical contact, and billing
12 contact for the Domain.

13 6. Muscle Cars of America is, and has been at all times relevant to this lawsuit, an
14 entity of unknown origin and nature.

15 7. Attempts to find evidence of formal organizational status in the respective
16 Secretary of State offices of Delaware, California, Illinois, New York, Texas, Tennessee, and
17 Nevada demonstrate that, at least with respect to these states, Muscle Cars of America is not a
18 formally organized business entity.

19 8. Muscle Cars of America is, and has been at all times relevant to this lawsuit, the
20 self-proclaimed owner of the copyright(s) in the work(s) posted as part of the content accessible
21 through the Domain (said content accessible through the Domain known herein as the
22 “Website”), as evidenced by a copyright notice displayed on the Website: “Copyright © 2008
23 Muscle Cars of America.”

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25
26 **JURISDICTION**

27 9. This Court has original subject matter jurisdiction over this copyright
28 infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

1 10. Righthaven is the owner of the copyright in the literary work entitled: “Do You
2 Feel The Need...” (the “Work”), attached hereto as Exhibit 1.

3 11. At all times relevant to this lawsuit, the Work has depicted and depicts the
4 original source publication as the *Las Vegas Review-Journal*.

5 12. The Defendants willfully copied, on an unauthorized basis, the Work from a
6 source emanating from Nevada.

7 13. On or about August 27, 2010, the Defendants displayed, and continue to display,
8 an unauthorized copy of the Work (the “Infringement”), attached hereto as Exhibit 2, on the
9 Website.

10 14. At all times relevant to this lawsuit, the Infringement has depicted and depicts the
11 original source publication as the *Las Vegas Review-Journal*.

12 15. The subject matter, at least in part, of the Work and the Infringement, is the Las
13 Vegas, Nevada-based Shelby American Speed Shop.

14 16. At all times relevant to this lawsuit, the Defendants knew that the Work was
15 originally published in the *Las Vegas Review-Journal*.

16 17. At all times relevant to this lawsuit, the Defendants knew that the Infringement
17 was and is of specific interest to Nevada residents.

18 18. The Defendants’ display of the Infringement was and is purposefully directed at
19 Nevada residents.

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22
23 VENUE

24 19. The United States District Court for the District of Nevada is an appropriate
25 venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to
26 the claim for relief are situated in Nevada.

1 20. The United States District Court for the District of Nevada is an appropriate
2 venue, pursuant to 28 U.S.C. § 1400 (a), because the Defendants are subject to personal
3 jurisdiction in Nevada.

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7 **FACTS**

8 21. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
9 102(a)(1).

10 22. Righthaven is the owner of the copyright in and to the Work.

11 23. The Work was originally published on or about August 27, 2010.

12 24. On October 6, 2010, the United States Copyright Office (the “USCO”) received
13 Righthaven’s official submittal for the registration to the Work, including the application, the
14 deposit copy, and the registration fee (the “Complete Application”), Service Request No. 1-
15 498243853, and attached hereto as Exhibit 3 is the official USCO application submittal for the
16 Work depicting the occurrence of the Complete Application.

17 25. On or about August 27, 2010, the Defendants displayed, and continue to display,
18 the Infringement on the Website.

19 26. The Defendants did not seek permission, in any manner, to reproduce, display, or
20 otherwise exploit the Work.

21 27. The Defendants were not granted permission, in any manner, to reproduce,
22 display, or otherwise exploit the Work.

23
24 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

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26 28. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
27 27 above.

1 29. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
2 U.S.C. § 106(1).

3 30. Righthaven holds the exclusive right to prepare derivative works based upon the
4 Work, pursuant to 17 U.S.C. § 106(2).

5 31. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
6 17 U.S.C. § 106(3).

7 32. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
8 U.S.C. § 106(5).

9 33. The Defendants reproduced the Work in derogation of Righthaven's exclusive
10 rights under 17 U.S.C. § 106(1).

11 34. The Defendants created an unauthorized derivative of the Work in derogation of
12 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

13 35. The Defendants distributed, and continue to distribute, an unauthorized
14 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
15 17 U.S.C. § 106(3).

16 36. The Defendants publicly displayed, and continue to publicly display, an
17 unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive
18 rights under 17 U.S.C. § 106(5).

19 37. Mr. Matthews has willfully engaged in the copyright infringement of the Work.

20 38. Muscle Cars of America has willfully engaged in the copyright infringement of
21 the Work.

22 39. The Defendants' acts as alleged herein, and the ongoing direct results of those
23 acts, have caused and will continue to cause irreparable harm to Righthaven in an amount
24 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

25 40. Unless the Defendants are preliminarily and permanently enjoined from further
26 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
27 entitled to preliminary and permanent injunctive relief against further infringement by the
28 Defendants of the Work, pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;

2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

a. All evidence and documentation relating in any way to the Defendants' use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;

b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and

c. All financial evidence and documentation relating to the Defendants' use of the Work;

3. Direct Orange Geek, and any successor domain name registrar for the Domain, to lock the Domain and transfer control of the Domain to Righthaven;

4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. § 504(c);

5. Award Righthaven costs, disbursements, and attorneys' fees incurred by Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

6. Award Righthaven pre- and post-judgment interest in accordance with applicable law; and

7. Grant Righthaven such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated this twelfth day of October, 2010.

RIGHTHAVEN LLC

By: /s/ J. Charles Coons
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